

Title	<b>Elder Abuse (revise forms EA-100, EA-110, EA-120, EA-130, and EA-150)</b>
Summary	Senate Bill 226 added a new section to the Code of Civil Procedure relating to firearms relinquishment. (See Code Civ. Proc., § 527.9.) This section provides procedures for firearm relinquishment for persons subject to civil harassment, elder abuse, and workplace violence orders. The legislation has also changed sections in the Penal Code and the Welfare and Institutions Code. To reflect this legislation, revised elder abuse forms will be presented to the Judicial Council for approval effective July 1, 2004. Some additional stylistic and formatting changes also would be made. Comments are invited on the revised forms. <sup>1</sup>
Source	Civil and Small Claims Advisory Committee
Staff	Patrick O'Donnell, Committee Counsel, 415-865-7665 patrick.o'donnell@jud.ca.gov
Discussion	<p>The elder abuse prevention forms have been revised to reflect recent legislation. To implement the legislation, the forms will be presented to the Judicial Council for revision effective July 1, 2004, without being circulated for comment.</p> <p>To give the public an opportunity to comment and to provide suggestions, the revised forms are also being circulated in the spring 2004 cycle. The revised forms are:</p> <ol style="list-style-type: none"> <li>1. <i>Petition for Protective Orders (Elder or Dependent Adult Abuse)</i> (form EA-100);</li> <li>2. <i>Response to Petition for Protective Orders (Elder or Dependent Adult Abuse)</i> (form EA-110);</li> <li>3. <i>Order to Show Cause and Temporary Restraining Order (Elder or Dependent Adult Abuse)</i> (form EA-120);</li> <li>4. <i>Restraining Order After Hearing (Elder or Dependent Adult Abuse)</i> (form EA-130); and</li> <li>5. <i>Instructions on Petition for a Protective Order to Prevent Elder or</i></li> </ol>

<sup>1</sup> The civil harassment and workplace violence prevention forms have also been revised. Separate Invitations to Comment relating to those forms are also being circulated.

*Dependent Adult Abuse (form EA-150).*

Previously, the Penal Code had provided that every person who owns, possesses, purchases, or receives a firearm, knowing that he or she is prohibited from doing so by the prohibitions of certain protective orders, is guilty of an offense. Senate Bill 226 added to the list of protective orders covered by these provisions of a protective order arising from elder or dependent adult abuse. (See Pen. Code, § 12021(g)(1).) But unlike civil harassment and workplace violence cases in which persons subject to the orders are prohibited from owning, possessing, or purchasing firearms, the firearms prohibition statutes in elder and dependent adult abuse cases do not apply to those cases in which the only abuse is financial. (See Welf. & Inst. Code, § 15657.03(o)(2).)

The recent legislation also added a new section to the Code of Civil Procedure that requires persons subject to certain temporary restraining orders or injunctions, including those relating to elder and dependent adult abuse, to relinquish firearms. (Code Civ. Proc., § 527.9.) This section specifies procedures for relinquishment of firearms.

The specific revisions made to the elder abuse prevention forms so that they will effectively and accurately implement SB 226 are described below.

*Petition for Protective Orders (Elder or Dependent Adult Abuse)*  
(form EA-100)

This form has been revised to include a request (in item 11) for an order that the restrained person (1) be prohibited from owning, possessing, purchasing, or receiving, or attempting to purchase or receive a firearm, and (2) be required to relinquish any firearm that he or she owns under Code of Civil Procedure section 527.9. The request is optional and only applies if the case does not involve solely financial abuse unaccompanied by force, threats, harassment, or any other form of abuse. (See Welf. & Inst. Code, § 15657.03(o)(2).)

Various other items on form EA-100 have been reordered and renumbered, and some stylistic and formatting changes have been made.

A statement would be added to the form, providing information for persons with hearing difficulties on how to request accommodations from the court. Comments are invited on this new item.

*Response to Petition for Protective Orders (Elder or Dependent Adult Abuse)* (form EA-110)

A new item (item 4) has been added where a response can be provided to the petitioner's request for firearms prohibition and relinquishment. The possible responses include that the respondent has no firearms, consents to the firearms relinquishment order, does not consent to the order, or consents to certain specific orders.

Other items on the form have been renumbered.

*Order to Show Cause and Temporary Restraining Order (Elder or Dependent Adult Abuse)* (form EA-120)

A new provision (item 6) has been included in the order where the court may order the respondent to relinquish a firearm under Code of Civil Procedure section 527.9. The order would state that, if a restrained person owns, possesses, and controls firearms and is ordered to relinquish them, he or she must file a proof of the sale or turnover of firearms with the court within 72 hours. New form EA-145 is available for this purpose.

To implement the recent legislation, notices regarding firearms and the effect of non-appearance at the hearing have been added to the form. (See Welf. & Inst. Code, § 5657.03(i)(2).)

Also, a statement would be added on how persons with hearing difficulties may request accommodations.

*Restraining Order After Hearing (Elder or Dependent Adult Abuse)* (form EA-130)

A new provision (item 9) for the court to include a firearms relinquishment order has been added to this form. This order is similar to the order on form EA-130.

*Instructions on Petition for a Protective Order to Prevent Elder or Dependent Adult Abuse* (form EA-150)

This form has been revised to reflect the changes in the other forms.

---

Attachments

1. **Petitioner** (name): \_\_\_\_\_ is \_\_\_\_\_

a.  the person to be protected.

b.  the conservator of the person to be protected.

c.  the guardian ad litem for the person to be protected.

d.  other (*describe relationship and capacity*): \_\_\_\_\_

2. **PERSON TO BE PROTECTED** (name): \_\_\_\_\_

a.  is age 65 years or older.

b.  is between the ages of 18 and 64, and has physical or mental limitations that restrict his or her ability to carry out normal activities or to protect his or her rights (*describe physical or mental limitations*): \_\_\_\_\_

3. a. **PERSON TO BE RESTRAINED** (*name*):  
b. DESCRIPTION:

Sex: ☐ M ☐ F Ht.: \_\_\_\_\_ Wt.: \_\_\_\_\_ Hair color: \_\_\_\_\_ Eye color: \_\_\_\_\_ Race: \_\_\_\_\_ Age: \_\_\_\_\_ Date of birth: \_\_\_\_\_

5. **RELATED CASES** (*specify*):

PETITIONER:  RESPONDENT:	CASE NUMBER:
--------------------------------	--------------

6. This petition should be granted because

- a. ☐ the person to be restrained caused the person to be protected to suffer physical harm or pain or mental suffering through physical abuse, financial abuse, abandonment, isolation, abduction, or other treatment.
- b. ☐ the person to be restrained has the care or custody of the person to be protected, but has neglected that person or deprived the person of goods or services that are necessary to avoid physical harm or mental suffering.

**PETITIONER REQUESTS THE COURT TO MAKE THE ORDERS INDICATED BY THE CHECK MARKS IN THE BOXES BELOW.**

7. ☐ **PERSONAL CONDUCT ORDER** ☐ **To be ordered now and to remain in effect until the hearing.**  
 Petitioner seeks an order that the restrained person must not abuse, intimidate, molest, attack, strike, stalk, threaten, sexually assault, batter, harass, telephone, destroy the personal property of, contact directly or indirectly, by mail or otherwise, or disturb the peace of the protected person.

8. ☐ **RESIDENCE EXCLUSION ORDER** ☐ **To be ordered now and to remain in effect until the hearing.**  
 a. Petitioner seeks an order that the restrained person must immediately move from and must not return to (address):

and may take only personal clothing and effects needed until the hearing.

- b. The residence exclusion order should be granted because
  - (1) The person to be protected has a legal right to live at the address listed above.
  - (2) The person to be protected will suffer physical or emotional harm if the restrained person does not leave the residence.
  - (3) Title to or lease of the residence at the address listed above is not in the sole name of the person to be restrained nor is it in the name of the person to be restrained and another person besides the person to be protected.
  - (4) ☐ The restrained person assaulted or threatened to assault the person to be protected.

9. ☐ **STAY- AWAY ORDER** ☐ **To be ordered now and to remain in effect until the hearing.**  
 Petitioner seeks an order that the restrained person **must** stay at least (specify): \_\_\_\_\_ yards away from the protected person and the following places:

- a. ☐ The residence of the protected person located at (specify):
- b. ☐ The place of work of the protected person (specify):
- c. ☐ The vehicle of the protected person (specify):
- d. ☐ Other (specify):

☐ Yes ☐ No

10. If the restrained person is ordered to stay away from all the places requested in item 9, will the restrained person still be able to get to his or her residence, school, place of employment, or place of worship?  
 (If no, explain):

11. ☐ **FIREARMS PROHIBITION AND RELINQUISHMENT ORDER**  
 Petitioner requests an order that the restrained person is prohibited from owning, possessing, purchasing or receiving, or attempting to purchase or receive a firearm, and must relinquish any firearm that he or she owns or possesses. The abuse in this case is not solely financial abuse unaccompanied by force, threat, harassment, intimidation, or any other form of abuse.

**THIS IS NOT AN ORDER**

PETITIONER:	CASE NUMBER:
RESPONDENT:	

12. ☐ **ORDER SHORTENING TIME**

Petitioner requests that time for service of the *Order to Show Cause* and accompanying papers be shortened so that they may be served no less than (specify number): \_\_\_\_\_ days before the date set for hearing. (If you need this process shortened, provide additional facts to support your request):

13. ☐ **OTHER ORDERS** (Specify any other orders that you are requesting. You must provide reasons for your requests. If you need more space, you may use Form MC-031):

14. **DESCRIPTION OF ABUSE AND OTHER FACTS SUPPORTING PETITION**

Describe in detail the most recent incidents of abuse. List each incident separately. Describe the incident, including who did what to whom and any injuries. Describe any history of abuse.)

Description ☐ is contained in the attached declaration (you may use Form MC-031) or ☐ is as follows:

15. **NO FILING FEE**

There is no filing fee for this petition.

16. ☐ **NO FEE FOR SERVICE OF ORDERS**

Petitioner requests free service by law enforcement of the orders issued based on this petition pursuant to Welfare & Institutions Code section 15657.03(m). (For the court to determine if you are eligible for free service, a completed copy of the Application for Waiver of Court Fees and Costs (form 982(a)(17) must be filed with this petition.)

**THIS IS NOT AN ORDER**

**PETITION FOR PROTECTIVE ORDERS  
(Elder or Dependent Adult Abuse) (CLETS)**

PETITIONER:  RESPONDENT:	CASE NUMBER:
--------------------------------	--------------

17. ☐ **ATTORNEY FEES AND COSTS**

Petitioner requests that petitioner's attorney fees and costs be paid by the restrained person as follows:

Item

Amount

18. ☐ **SERVICE OF ORDERS ON LAW ENFORCEMENT**

Petitioner requests that copies of order be given to the law enforcement agencies listed below by:

- a. ☐ petitioner
- b. ☐ petitioner's attorney
- c. ☐ the clerk of the court by mail

Law Enforcement Agency

Address

**Please note that this *Petition For Protective Orders* and the orders issued by the court must be personally served on the restrained person. No person to be protected, including yourself, may personally serve these papers.**

Date:

(TYPE OR PRINT NAME)		(SIGNATURE OF ATTORNEY)
----------------------	--	-------------------------

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Date:

(TYPE OR PRINT NAME)		(SIGNATURE OF PETITIONER)
----------------------	--	---------------------------

Assistive listening systems, computer-assisted-real-time-captioning or sign language interpreter services are available upon request if at least 5 days notice is provided. Contact the clerk's office for *Request for Accommodations by Persons with Disabilities and Order* (form MC-410). (Civil Code section 54.8.)



**THIS IS NOT AN ORDER**





PETITIONER:	CASE NUMBER:
RESPONDENT:	

5. ☐ **OTHER ORDERS** (see item 13 of the *Petition for Protective Orders (Elder or Dependent Adult Abuse)* (Form EA-100))
- a. ☐ I consent to the order requested in the petition.
- b. ☐ I do not consent to the order requested in the petition.
- c. ☐ I consent to the following order (*specify*):

6. ☐ **FACTS SUPPORTING THIS RESPONSE**
- Facts ☐ are contained in the attached declaration (*you may use Form MC-031*) or ☐ are as follows:

7. ☐ **ATTORNEY FEES AND COSTS**
- a. ☐ I request the court to order payment of my attorney fees if I win.
- b. ☐ I request the court to order payment of my out-of-pocket expenses incurred as the result of an ex parte temporary restraining order issued without sufficient facts. The expenses are:
- | <u>Item</u> | <u>Amount</u> |
|-------------|---------------|
|-------------|---------------|

Date:

\_\_\_\_\_  
(TYPE OR PRINT NAME)



\_\_\_\_\_  
(SIGNATURE OF ATTORNEY)

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Date:

\_\_\_\_\_  
(TYPE OR PRINT NAME)



\_\_\_\_\_  
(SIGNATURE OF RESPONDENT)

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, state bar number, and address):	<b>DRAFT 6</b> <b>04/08/04</b>
TELEPHONE NO. (Optional): FAX NO. (Optional):	
E-MAIL ADDRESS (Optional):	
ATTORNEY FOR (Name):	
<b>SUPERIOR COURT OF CALIFORNIA, COUNTY OF</b> STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME:	
PETITIONER: RESPONDENT:	
<b>ORDER TO SHOW CAUSE AND TEMPORARY RESTRAINING ORDER (Elder or Dependent Adult Abuse) (CLETS)</b>	CASE NUMBER:

## ORDER TO SHOW CAUSE

1. **TO** *(name of person to be restrained)*:
2. **YOU ARE ORDERED** to appear in this court at the date, time, and place shown in the box below to give any legal reason why the orders sought and the other relief requested in the petition should not be granted.

## NOTICE OF HEARING

a. Date:	Time:	Dept.:	Room:
----------	-------	--------	-------

- b. The address of the court where the hearing will be held ☐ is shown above ☐ is (specify):

***A court hearing has been set at the time and place indicated above. You may attend this hearing, with or without an attorney, to give any legal reason why the orders requested in the attached petition should not be granted. Before preparing your response, you should read the INSTRUCTIONS FOR THE RESPONDENT on page four of this document. If you do not appear at the court hearing at the date, time, and place indicated in this notice, the court may grant the requested orders for up to three years without further notice to you.***

Date:

JUDICIAL OFFICER

## TEMPORARY RESTRAINING ORDER

**THIS ORDER SHALL EXPIRE AT THE DATE AND TIME OF THE HEARING SHOWN IN THE BOX ABOVE UNLESS EXTENDED BY THE COURT.**

## THE COURT FINDS

3. a. The restrained person is (*name*):  
b. The restrained person is described as follows:

Sex: ☐ M ☐ F Ht.: \_\_\_\_ Wt.: \_\_\_\_ Hair color: \_\_\_\_ Eye color: \_\_\_\_ Race: \_\_\_\_ Age: \_\_\_\_ Date of birth: \_\_\_\_

4. The protected person is (*name*):

PETITIONER:	CASE NUMBER:
RESPONDENT:	

**UNTIL THE TIME OF HEARING, IT IS ORDERED**

5. a. **PERSONAL CONDUCT ORDER**

☐ The restrained person shall not abuse, intimidate, molest, attack, strike, stalk, threaten, sexually assault, batter, harass, telephone, destroy the personal property of, contact directly or indirectly by mail or otherwise, or disturb the peace of the protected person.

b. **RESIDENCE EXCLUSION ORDER**

☐ The restrained person **must** immediately move from and must not return to the protected person's residence located at (address):

and may take only personal clothing and effects needed until the hearing.

c. **STAY-AWAY ORDER**

☐ The restrained person shall stay at least (specify): \_\_\_\_\_ yards away from the protected person and the following places:

(1) ☐ The protected person's residence located at (address):

(2) ☐ The protected person's place of work is located at (address):

(3) ☐ The protected person's vehicle (specify):

(4) ☐ Other (specify):

6. ☐ **FIREARMS PROHIBITION AND RELINQUISHMENT ORDER**

*(If the abuse alleged in this case is solely financial abuse unaccompanied by force, threat, harassment, intimidation, or any other form of abuse, no firearms prohibition or relinquishment order shall be issued.)*

The abuse alleged in this case is not solely financial abuse unaccompanied by force, threat, harassment, intimidation, or any other form of abuse. The restrained person is prohibited from owning, possessing, purchasing, or receiving, or attempting to purchase or receive any firearms, and must surrender to local law enforcement or sell to a licensed gun dealer any firearm in or subject to his or her immediate possession or control within

(1) ☐ 24 hours after issuance of this order *(if restrained person is present at hearing)*.

(2) ☐ 48 hours after service of this order *(if restrained person is not present at hearing)*.

(3) ☐ other (specify):

If the restrained person owns, possesses, or controls any firearms, he or she must file a receipt with the court showing compliance with this order within 72 hours of receiving this order. *(Form EA-145 is available for this purpose.)*

7. **NO FEE FOR FILING**

There are no fees for filing the petition and response to these restraining orders.

8. ☐ **NO FEE FOR SERVICE OF ORDERS**

Fees for service of this order by law enforcement are waived.

9. **OTHER ORDERS (specify):**

10. **SERVICE ON DEFENDANT**

a. ☐ The request for an order shortening time is granted.

b. ☐ The documents listed in c must be personally served on the restrained person no fewer than (specify number) \_\_\_\_\_ days before the time set for the hearing. The response must be filed no fewer than (specify number) \_\_\_\_\_ days before the time set for hearing.

PETITIONER:	CASE NUMBER:
RESPONDENT:	

c. The documents listed below must be personally served on the restrained person:

1. ☐ *Petition for Protective Orders (Elder or Dependent Adult Abuse) (CLETS).*
2. ☐ *Order to Show Cause and Temporary Restraining Order (Elder or Dependent Adult Abuse) (CLETS).*
3. ☐ *Blank Response Petition for Protective Orders (Elder or Dependent Adult Abuse) (CLETS).*
4. ☐ *Other (specify):*

d. Proof of service of the documents must be served and filed with the court before the hearing.

#### 11. DELIVERY TO LAW ENFORCEMENT

A copy of this order and any proof of service must be delivered to the law enforcement agencies listed below by the following means:

- a. ☐ The protected person must deliver.
- b. ☐ The protected person's attorney must deliver.
- c. ☐ The clerk of the court must mail.

Law enforcement agency

Address

Date:

JUDICIAL OFFICER

### NOTICES TO THE RESPONDENT

#### IMPORTANT INFORMATION FOR RESTRAINED PERSON

Carefully read these and all other papers served on you. The *Order to Show Cause and Temporary Restraining Order (Elder or Dependent Adult Abuse)* [OSC] tells you when to appear in court and may contain a temporary restraining order forbidding you from doing certain things. If you disobey the court's orders, criminal charges may be filed against you.

If you want to respond to or oppose the *Petition for Protective Orders (Elder or Dependent Adult Abuse)* [Petition], you should file a *Response to Petition for Protective Orders* [Response] (Form EA-110). Read the *Instructions for the Respondent* on the next page for information on how to complete your Response.

#### NOTICE REGARDING ENFORCEMENT OF THIS ORDER

This order is effective when made. It is enforceable anywhere in California by any law enforcement agency that has received the order, is shown a copy of the order, or has verified its existence on the California Law Enforcement Telecommunications System (CLETS). If proof of service on the restrained person has not been received, and the restrained person was not present at the court hearing, the law enforcement agency shall advise the restrained person of the terms of the order and shall enforce it.

Violation of this restraining order may be punished as a contempt of court, a misdemeanor, punishable by one year in jail or a \$1,000 fine, or both.

#### NOTICE REGARDING FIREARMS

Unless this case involves solely financial abuse unaccompanied by force, threat, harassment, intimidation, or other form of abuse, any person subject to a restraining order is prohibited from owning, possessing, purchasing, or receiving, or attempting to purchase or receive, a firearm. Such conduct is subject to a \$1,000 fine and imprisonment.

PETITIONER:	CASE NUMBER:
RESPONDENT:	

### NOTICE REGARDING NON-APPEARANCE AT HEARING AND SERVICE OF ORDER

IF YOU HAVE BEEN PERSONALLY SERVED WITH A TEMPORARY RESTRAINING ORDER AND NOTICE OF HEARING, BUT YOU DO NOT APPEAR AT THE HEARING EITHER IN PERSON OR BY COUNSEL, AND A RESTRAINING ORDER IS ISSUED AT THE HEARING WHICH DOES NOT DIFFER FROM THE PRIOR TEMPORARY RESTRAINING ORDER, A COPY OF THE ORDER WILL BE SERVED UPON YOU BY MAIL AT THE FOLLOWING ADDRESS:

IF THAT ADDRESS IS NOT CORRECT OR YOU WISH TO VERIFY THAT THE TEMPORARY ORDER WAS MADE PERMANENT WITHOUT SUBSTANTIVE CHANGE, CONTACT THE CLERK OF THE COURT.

IF BOTH YOU AND THE PETITIONER ARE PERSONALLY PRESENT AT THE HEARING WHERE THE ORDER IS ISSUED, NO ADDITIONAL PROOF OF SERVICE WILL BE REQUIRED.

### INSTRUCTIONS FOR THE RESPONDENT

1. If you are served with an *Order to Show Cause and Temporary Restraining Order (Elder or Dependent Adult Abuse)* [OSC] (Form EA-120) and a *Petition for Protective Orders (Elder or Dependent Adult Abuse)* [Petition] (Form EA-100), you should promptly seek legal advice. If you have no attorney, the attorney referral service of your local bar association may be of assistance.
2. If you wish to respond to or oppose the **Petition**, you should file a *Response to Petition for Protective Orders* [Response] (Form EA-110). An original **Response** must be filed with the court and a copy served on the petitioner or the petitioner's attorney. You do not have to pay any fee to file your **Response**.

In addition to the **Response**, you may file and serve declarations signed by you and other persons who have personal knowledge of the facts. A declaration form (form MC-031) is available from the clerk's office of the court shown on page one of this form. If you do not know how to prepare a declaration, you should see an attorney. After you have filed the **Response** with the clerk of the court, a copy must be delivered personally or by mail to the petitioner or the petitioner's attorney.

You cannot serve the petitioner yourself. The person who serves the petitioner should complete and sign a *Proof of Service* (Form EA-141). You should take the completed form back to the court clerk before the hearing date or bring it with you to the hearing.

3. If you wish to oppose the **Petition**, in addition to filing a **Response** you should be present at the hearing. If you have any witnesses, they must also be present at the hearing.

[SEAL]

### CLERK'S CERTIFICATE

I certify that the foregoing *Order to Show Cause and Temporary Restraining Order (Elder or Dependent Adult Abuse)* (CLETS) is a true and correct copy of the original on file in the court.

Date: \_\_\_\_\_ Clerk, by \_\_\_\_\_, Deputy

Assistive listening systems, computer-assisted-real-time-captioning or sign language interpreter services are available upon request if at least 5 days notice is provided. Contact the clerk's office for *Request for Accommodations by Persons with Disabilities and Order* (form MC-410). (Civil Code section 54.8.)



THIS ORDER, EXCEPT FOR ANY AWARD OF ATTORNEY FEES AND COSTS, SHALL EXPIRE AT MIDNIGHT ON  
(date): . IF DATE IS BLANK, THIS ORDER EXPIRES THREE YEARS FROM THE DATE OF ISSUANCE.

1. This proceeding was heard by judicial officer (*name*):  
on (*date*): \_\_\_\_\_ at (*time*): \_\_\_\_\_ in Dept.: \_\_\_\_\_ Room: \_\_\_\_\_ Div.: \_\_\_\_\_
2. a. ☐ The person seeking to be protected and the person to be restrained were personally present at the court hearing. No additional proof of service of this restraining order is required.
- b. ☐ The person seeking the restraining order was personally present and proof of service of the *Order to Show Cause* and the *Petition for Protective Orders* on the respondent was presented to the court.
- c. ☐ By written stipulation, no additional proof of service of this restraining order is required.

3.
  - a. The restrained person is (*name*):
  - b. The description of the restrained person is as follows:

4. The protected person is (*name*):

- ## THE COURT ORDERS

6. ☐ **PERSONAL CONDUCT ORDER**

Form Approved for Optional Use  
Judicial Council of California  
EA-130 [Rev. July 1, 2004]  
Approved by DOJ

## RESTRAINING ORDER AFTER HEARING (Elder or Dependent Adult Abuse) (CLETS)

PETITIONER:	CASE NUMBER:
RESPONDENT:	

7. ☐ **RESIDENCE EXCLUSION ORDER**

The restrained person **must** immediately move from and must not return to the residence located at the address listed in item 5a.

8. ☐ **STAY-AWAY ORDER**

The restrained person **must** stay at least (*specify*): \_\_\_\_\_ yards away from the protected person and the following places:

a. ☐ The protected person's residence located at the (*address*):

b. ☐ The protected person's place of work located at (*address*):

c. ☐ The protected person's vehicle (*specify*):

d. ☐ Other (*specify*):

9. ☐ **FIREARMS PROHIBITION AND RELINQUISHMENT ORDER**

*(If the abuse alleged in this case is solely financial abuse unaccompanied by force, threat, harassment, intimidation, or any other form of abuse, no firearms prohibition or relinquishment order shall be issued.)*

The abuse alleged in this case is not solely financial abuse unaccompanied by force, threat, harassment, intimidation, or any other form of abuse. The restrained person is prohibited from owning, possessing, purchasing, or receiving, or attempting to purchase or receive any firearms, and must surrender to local law enforcement or sell to a licensed gun dealer any firearm in or subject to his or her immediate possession or control within

(1) ☐ 24 hours after issuance of this order (if restrained person is present at hearing).

(2) ☐ 48 hours after service of this order (if restrained person is not present at hearing).

(3) ☐ other (*specify*):

If the restrained person owns, possesses, or controls any firearms, he or she **must** file a receipt with the court showing compliance with this order within 72 hours of receiving this order. (*Form EA-145 is available for this purpose.*)

10. ☐ **ADDITIONAL ORDERS** (*specify*):

11. ☐ Fees for service of this order by law enforcement are waived.

12. ☐ **SERVICE OF ORDERS ON LAW ENFORCEMENT**

Petitioner requests that copies of order be given to the law enforcement agencies listed below by:

a. ☐ petitioner

b. ☐ petitioner's attorney

c. ☐ the clerk of the court by mail

Law Enforcement Agency

Address

Date:

\_\_\_\_\_  
JUDICIAL OFFICER

PETITIONER:	CASE NUMBER:
RESPONDENT:	

### NOTICE REGARDING ENFORCEMENT OF THIS ORDER

This order is effective when made. The law enforcement agency shall enforce the order immediately upon receipt. It is enforceable anywhere in California by any law enforcement agency that has received the order, is shown a copy of the order, or has verified its existence on the California Law Enforcement Telecommunications System (CLETS). If proof of service on the restrained person has not been received, the law enforcement agency shall advise the restrained person of the terms of the order and then shall enforce it.

Violation of this order is a misdemeanor, punishable by a \$1,000 fine, one year in jail, or both. This order shall be enforced by all law enforcement officers in the state of California.

### NOTICE REGARDING FIREARMS

Unless the abuse in this case is solely financial abuse unaccompanied by force, threat, harassment, intimidation, or any other form of abuse, the restrained person is prohibited from owning, possessing, purchasing, or receiving, or attempting to purchase or receive any firearm. Such conduct is subject to a \$1,000 fine and imprisonment.

[SEAL]

### CLERK'S CERTIFICATE

I certify that the foregoing *Restraining Order After Hearing (Elder or Dependent Adult Abuse)* (CLETS) is a true and correct copy of the original on file in the court.

Date:

Clerk, by \_\_\_\_\_, Deputy



**INSTRUCTIONS**  
**ON PETITION FOR A PROTECTIVE ORDER TO**  
**PREVENT ELDER OR DEPENDENT ADULT ABUSE**  
**INSTRUCTIONS FOR THE PETITIONER**

**DRAFT 3**  
**04/08/04**

**1. Where to file**

A petition for a protective order must be filed in the superior court in the county where the abuse occurred or where the defendants, or some of them reside at the time the petition is filed.

**2. Who may be protected by the orders?**

An elder or dependent adult who has suffered abuse as defined in Section 15610.07 of the California Welfare and Institutions Code may be protected by the orders. Under Section 15610.07, "abuse of an elder or a dependent adult" means either of the following:

- a. Physical abuse, neglect, financial abuse, abandonment, isolation, abduction, or other treatment with resulting physical harm or pain or mental suffering.
- b. The deprivation of a care custodian of goods or services that are necessary to avoid physical harm or mental suffering.

**3. Who can petition for the orders?**

The person to be protected, the conservator of the person to be protected, or a guardian ad litem appointed by the court to represent the person to be protected can file a petition.

**4. What forms are required?**

Prepare an original and, once completed, make **at least two copies** of each of the following:

Form EA-100 — *Petition for Protective Orders*

Form EA-120 — *Order to Show Cause and Temporary Restraining Order*

Forms are available at the court clerk's office or through legal publishers. Forms are also available on the California Courts Web site at [www.courtinfo.ca.gov/forms](http://www.courtinfo.ca.gov/forms).

The forms may be filled out on a computer, be typed, or be handwritten or handprinted. If you have access to the Internet, fillable forms are available on the California Courts Web site. Most libraries and some women's shelters and volunteer legal service groups have computers that you may use. If you handwrite your forms, print clearly.

You will need one copy of the temporary restraining order for each law enforcement agency or others who will help enforce the order and two copies for yourself. Thus, if you want to give copies of the court orders to three law enforcement agencies, you will need at least **five** copies of your forms. Bring the original and all copies to court to present to the court clerk.

**5. Judicial signature**

The court clerk will inform you where to take your documents for judicial signature.

**6. Filing fee, filing, and hearing date**

The *Petition for Protective Orders* (form EA-100) and the *Order to Show Cause and Temporary Restraining Order* (form EA-120) must be presented to the court. There is no fee for filing these documents. The court will provide a hearing date, which will be inserted in the order. When you file these documents, you should ask the court clerk to file-stamp your copies.

**7. Delivery of the temporary restraining order to law enforcement**

You should ensure that each order is delivered to the appropriate law enforcement agencies so that the orders will be enforced. Check with the court clerk to find out how to deliver an order.

(Instructions on next page)

## 8. Personal service requirements

The law requires that the person from whom you wish to be protected must be personally **served** this notice that you have filed for a restraining order. The judge cannot make any orders at the hearing unless and until the person from whom you wish to be protected has been properly served.

Once you have obtained a signed order, the original petition and order have been filed with the court, and you have received your filed-stamped copies from the court clerk, you must have the respondent—the person from whom you wish to be protected—personally **served** with a filed-stamped copy of the *Petition for Protective Orders* (form EA-100), a filed-stamped copy of the *Order to Show Cause and Temporary Restraining Order* (form EA-120), and a blank *Response to Petition for Protective Orders* (form EA-110). The papers must be **served** at least two days before the hearing date, unless the court has shortened the time required for service.

**"Serve"** is a legal term which means that your completed forms must be personally delivered to the person from whom you wish to be protected. Neither the protected person nor the petitioner (if that is someone other than the protected person) may serve the papers on the other party. Service may be made by a licensed process server, the sheriff's department, or any person 18 years or older who is not a party to the case.

If you hire a professional process server, you must pay for this service. It is helpful to give the process server a picture of the person from whom you wish to be protected and a list of times and places when it will be easier to find that person to serve the forms. You may not have to pay to have the court forms served on the person from whom you wish to be protected. For instance, if you cannot afford to pay, you may file a fee waiver application with the court. (If you want to apply for a fee waiver, see *Application for Waiver of Court Fees and Costs* (form 982(a)(17); *Information Sheet on Waiver of Court Fees and Costs* (form 982(a)(17)(A); and *Order on Application for Waiver of Court Fees and Costs* (form 982(a)(18)). The judge may waive your fees so that the sheriff or marshal will serve your papers for free. If the person from whom you wish to be protected is in jail, there is no fee to have the person served.

## 9. Proof of service requirements

After the restrained person has been personally served, the person who served the papers must complete and sign a *Proof of Service* (form EA-140) (for personal service)). The original proof of service must be filed with the court. Keep copies for yourself and deliver a copy to each of the law enforcement agencies you would like to enforce the order. Check with the court clerk to find out how to deliver the order.

## 10. Bring documents to the court hearing

Bring copies of all documents you have filed with the court, including your *Proof of Service* forms, to the court hearing. In addition, complete and bring with you a completed copy of the *Restraining Order After Hearing* (form EA-130) for the judge's signature at the hearing.

## 11. After the hearing

### a. Filing the signed restraining order after the hearing

At or after the hearing, the *Restraining Order After Hearing* (form EA-130) may be modified to reflect the judge's orders. Ask the judge or court clerk how to obtain the judge's signature on the final order. After the judge signs the order, make **at least two copies**. File the original with the court clerk and ask the court clerk to file-stamp the copies for you.

### b. Delivery of the signed restraining order

You should ensure that the order is delivered to the law enforcement officials that you would like to have enforce the order. Check with the court clerk to find out how to deliver the order.

### c. Serving the signed restraining order

If the respondent—the person from whom you wish to be protected—was not present in court at the court hearing, you should arrange to have the respondent personally served with a filed-stamped copy of the *Restraining Order After Hearing* (form EA-130). If the respondent was present in court at the court hearing, you can have the respondent served with the order by mail.

(Instructions on next page)

**d. Proof of service of the signed restraining order**

After the restrained person has been served, the person who served the papers must complete and sign a *Proof of Service* (form EA-140 (for personal service)). The original must be filed with the court. Keep copies for yourself. A copy of this proof of service must be registered along with the order itself with the law enforcement agencies that you want to enforce the order. Check with the court clerk to find out how to register the order and proof of service.

**INSTRUCTIONS FOR THE RESPONDENT**

1. If you are served with an *Order to Show Cause and Temporary Restraining Order (Elder or Dependent Adult Abuse)* (form EA-120) and a *Petition for Protective Orders (Elder or Dependent Adult Abuse)* (form EA-100), you should promptly seek legal advice. If you have no attorney, the attorney referral service of your local bar association may be of assistance.
2. If you wish to respond to or oppose the petition, you should file a *Response to Petition for Protective Orders* (form EA-110). Forms are available at the court clerk's office, from legal publishers, and in fillable form on the California Courts Web site at [www.courtinfo.ca.gov/forms](http://www.courtinfo.ca.gov/forms). An original response must be filed with the court and a copy served on the petitioner or the petitioner's attorney. You do not have to pay any fee to file your response.

In addition to the response, you may file and serve declarations signed by you and other persons who have personal knowledge of the facts. A declaration form (form MC-031) is available from the court clerk's office. If you do not know how to prepare a declaration, you should see an attorney. After you have filed the response with the clerk of the court, a copy must be delivered personally or by mail to the petitioner or the petitioner's attorney.

You cannot serve the petitioner yourself. The person who serves the petitioner must complete and sign a *Proof of Service* (form EA-140) (for personal service)) or (form EA-141 (for service by mail)). You should take the completed form back to the court clerk before the hearing date or bring it with you to the hearing.

3. If you wish to oppose the petition, in addition to filing a response you should be present at the hearing. If you have any witnesses, they must also be present at the hearing.
4. If the court orders you to relinquish firearms, you must sell all your firearms to a licensed gun dealer or relinquish them to a law enforcement agency. You must file a receipt showing that you have sold or relinquished the firearms within 72 hours of receiving the order. You may use *Proof of Sale/Turning in of Firearms* (form CH-145/EA-145/WV-145) for this purpose.